



North Carolina Department of Health and Human Services  
Division of Health Service Regulation

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

Drexdal Pratt  
Division Director

**RESPONSE REQUIRED**

July 23, 2015

Bill Schiff  
2200 W. Main Street, Suite 500  
Durham, NC 27705

**Conditional Approval**

Project ID #: J-11031-15  
Facility: Duke GI at Brier Creek  
Project Description: Relocate the existing licensed facility and develop two additional GI endoscopy rooms for a total of 4 rooms upon project completion  
County: Wake  
FID #: 150337

Dear Mr. Schiff:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, G.S. 131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Private Diagnostic Clinic, PLLC d/b/a Duke GI at Brier Creek shall materially comply with all representations made in the certificate of need application and supplemental information received. In those instances where representations conflict, Private Diagnostic Clinic, PLLC d/b/a Duke GI at Brier Creek shall materially comply with the last made representation.
2. Private Diagnostic Clinic, PLLC d/b/a Duke GI at Brier Creek shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital



**Healthcare Planning and Certificate of Need Section**

[www.ncdhhs.gov](http://www.ncdhhs.gov)

Telephone 919-855-3873 • Fax 919-715-4413

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

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expenditure in Section VIII of the application and that would otherwise require a certificate of need.

3. Private Diagnostic Clinic, PLLC d/b/a Duke GI at Brier Creek shall develop no more than two additional gastrointestinal endoscopy rooms and shall be licensed for a total of no more than four gastrointestinal endoscopy rooms at Duke GI at Brier Creek following project completion.
4. Private Diagnostic Clinic, PLLC d/b/a Duke GI at Brier Creek shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.

**Response to the above conditions should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency making a determination not to issue a certificate of need for the project referenced above.**

The conditional approval is valid only for a capital expenditure of \$1,653,993. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by G.S. 131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you may file a petition for a contested case hearing in accordance with G.S. 150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the date of this decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

G.S. 150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Emery Milliken  
Department of Health and Human Services,  
Office of Legal Affairs,  
Adams Building – Room 154  
2001 Mail Service Center  
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Agency.

The certificate of need will not be issued before the completion of this 30 day period ending August 22, 2015. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

Contract Award	October 8, 2015
50% Completion of Construction	November 15, 2015
Completion of Construction	December 15, 2015
Occupancy/Offering of Services	January 1, 2016

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact this office if any clarification of this decision is required.

Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,

Gloria C. Hale  
Project Analyst

Lisa Pittman  
Team Leader, Certificate of Need

Attachment

cc: Acute & Home Care Licensure & Certification Section, DHSR  
Construction Section, DHSR  
Assistant Chief, Healthcare Planning

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing notice of **conditional approval** on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Bill Schiff  
2200 W. Main Street  
Suite 500  
Durham, NC 27705

Project ID #: J-11031-15  
FID #: 150337

This the 23<sup>rd</sup> day of July, 2015.

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Gloria C. Hale  
Project Analyst, Certificate of Need